

PATENTAtty Docket No.: 10007965-1
App. Ser. No.: 09/955,764**REMARKS**

Favorable reconsideration of this application is respectfully requested in view of the following remarks. Currently, claims 1-43 are pending in the present application of which claims 1, 29, and 36 are independent.

Claims 1-7, 9-11, 13-19, 21-32, and 35-42 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kazi et al. ("JaViz: A Client/Server Java Profiling Tool") in view of Blumson et al. ("Automatic Insertion of Performance Instrumentation for Distributed Applications").

Claims 8, 12, and 43 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kazi et al. and Blumson et al. as applied to claims 7, 9, and 36, respectively, and further in view of Courant et al. (U.S. Patent Number 5,522,073).

Claim 20 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kazi et al. and Blumson et al. as applied to claim 9 and further in view of Brandle et al. (U.S. Patent Number 5,146,593).

Claims 33 and 34 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kazi et al. and Blumson et al. as applied to claim 29 and further in view of Peek et al. ("Unix Power Tools").

The above rejections are respectfully traversed for at least the reasons set forth below.

Claim Rejection Under 35 U.S.C. §103

The test for determining if a claim is rendered obvious by one or more references for purposes of a rejection under 35 U.S.C. § 103 is set forth in MPEP § 706.02(j):

To establish a *prima facie* case of obviousness, three basic criteria must be met. First, there must be some suggestion or motivation,

PATENTAtty Docket No.: 10007965-1
App. Ser. No.: 09/955,764

either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations. The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

Therefore, if the above-identified criteria are not met, then the cited reference(s) fails to render obvious the claimed invention and, thus, the claimed invention is distinguishable over the cited reference(s).

Claims 1-7, 9-11, 13-19, 21-32, and 35-42

Claims 1-7, 9-11, 13-19, 21-32, and 35-42 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kazi et al. in view of Blumson et al.

Claim 1

Claim 1 recites, *inter alia*,

recording a stub start log data including a global causal identifier in an instrumented stub before said invocation of said second software component;
transmitting the global causal identifier from the first software component to the second software component ...;
recording a stub end log data including the global causal identifier ...;

Initially, the Office Action rejects the claimed recording features by citing the following passage in Kazi et al. (last paragraph, p. 7):

“The trace generation module of the Jvm is modified to record every invocation of a method using time stamps that show the start and end times of the method with microsecond resolution.” (Emphasis added in Office Action).

PATENT

Atty Docket No.: 10007965-1
App. Ser. No.: 09/955,764

It is respectfully submitted that in order for the Jvm's trace generation module in Kazi et al. to record every method invocation using time stamps to show the start and end times of the method, it is necessary that such recordation is done *no earlier* than the actual start and end times of the invocation of the method. Without the method invocation actually starting and ending, there would be no time stamps of start and end times to record. This is in contrast to claim 1, which recites a "recording of a stub start log data ... *before said invocation* of said second software component." (Emphasis added).

Next, the Office Action rejects the claimed global causal identifier by citing the following three (3) different passages in Kazi et al.:

"Invocations of the same method executed under different threads are distinguished from one another by their unique thread identifiers." (Kazi et al., paragraph 3, p. 4; emphasis added by Office Action; hereinafter, "Passage 1").

In addition to the parent-child links to reflect the call graph, each record contains such information as the number of methods invoked by this method, the time when the method started, the time when it completed, the thread executing this method, the method identifier of the method call being represented, and the specific Jvm on which the method is executed. (Id., paragraph 3, p. 5; emphasis added by Office Action, hereinafter, "Passage 2").

To trace client/server activities through RMI, every object to be exported to a remote Jvm is given a unique identifier automatically by the server Jvm. Similarly, each method that can be remotely invoked in an exported object is also given a unique (within a class) identifier by the RMI module. For every remote method invoked through RMI, JaViz's modified Jvm records these identifiers at both the client side and the server side. (Id., paragraph 4, p. 8; emphasis added by Office Action, hereinafter, "Passage 3").

Thus, the Office Action apparently cites three (3) separate and distinct identifiers found in Kazi et al. to reject a single global causal identifier recited in claim 1: a unique thread identifier in Passage 1, a method identifier in Passage 2, and an object identifier in Passage 3. The unique thread identifier, as stated in Passage 1, is for identifying a particular

PATENTAtty Docket No.: 10007965-1
App. Ser. No.: 09/955,764

thread that an invoked method uses to execute. The method identifier, as stated in Passage 2, is for identifying a particular method being invoked. The object identifier, as stated in Passage 3, is for identifying an object to be exported to a remote Jvm. It is respectfully submitted that the Office Action cannot selectively cite 3 different identifiers in Kazi et al. to reject one and the same global causal identifier at different instances in claim 1 so as to forcibly fit the disclosure of Kazi et al. to the language in claim 1. At best, such rejection creates confusion as to which one of the thread identifier, the method identifier, and the object identifier the Office Action considers to be the claimed global causal identifier. At worst, such rejection runs contrary to the language in claim 1, which recites one and the same global causal identifier throughout the claim.

Regardless which one of the thread identifier, the method identifier, and the object identifier the Office Action considers to be the claimed global causal identifier, none of those three (3) identifiers qualifies as the claimed global causal identifier. Specifically, Kazi et al. makes no mention of a transmission of the thread identifier from one Jvm to another Jvm. At best, Kazi et al. teaches that the thread identifier is only saved in a .prf file in the executing Jvm. Kazi et al., paragraph 3, p. 4. Likewise, the method identifier is given by the RMI module to the executing Jvm that performs the remote method lookup with no transmission to any other Jvm. Id. at paragraph 4, p. 8. As for the object identifier, it is given by the server Jvm and remains in the server Jvm with no transmission to any other Jvm. Id. In contrast, claim 1 recites "transmitting the global causal identifier from the first software component to the second software component"

The Office Action relies on Blumson et al. for its disclosure in page 6, Section 6.1:
"Our IDL compiler has an additional command-line flag ... to insert instrumentation."

PATENT

Atty Docket No.: 10007965-1
App. Ser. No.: 09/955,764

(Emphasis added by Office Action). As such, the Office Action does not rely on Blumson et al. to show the claimed global causal identifier.

Because Kazi et al. fail to teach or suggest all the claimed features in claim 1, and the Office Action has not relied on Blumson et al. to cure such defects, the Office Action fails to establish a *prima facie* case of obviousness of claim 1 in view of Kazi et al. and Blumson et al. Accordingly, it is respectfully submitted that claim 1 and its dependent claims 2-28 are allowable over the references of record, and the Examiner is respectfully requested to withdraw the rejection of claims 1-28.

Claim 29

Claim 29 recites, *inter alia*,

accumulating one or more stub start log data entries including a global causal identifier wherein the global causal identifier is transmitted from a first software component to a second software component ..., with a stub start log data entry of said one or more stub start data entries being recorded by an instrumented stub before a subsequent software component invocation.

and other features of the one and same global causal identifier. Therefore, all aforementioned reasons for the allowability of claim 1 also apply to claim 29 and its dependent claims 30-35.

Accordingly, it is respectfully submitted that the Office Action also fails to establish a *prima facie* case of obviousness against claims 29-35, and the Examiner is respectfully requested to withdraw the rejection of claims 29-35.

Claim 36

Claim 36 recites, *inter alia*,

"wherein said one or more instrumented stubs is configured to transmit said global causal identifier from one of the software components in the at least one processing

PATENT

Atty Docket No.: 10007965-1
App. Ser. No.: 09/955,764

device to at least one other component in the at least one other processing device.”

As stated in the aforementioned reasons for the allowability of claim 1, there is confusion as to which one of the thread identifier, method identifier, and object identifier the Office Action considers to be the claimed global causal identifier. Furthermore, none of those three (3) identifiers qualify as the claimed global causal identifier because none of them is transmitted from one software component to another software component, as recited in claim 36.

Accordingly, it is respectfully submitted that the Office Action also fails to establish a *prima facie* case of obviousness against claims 36 and its dependent claims 37-43, and the Examiner is respectfully requested to withdraw the rejection of claims 37-43.

Claims 8, 12, and 43

Claims 8, 12, and 43 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kazi et al. and Blumson et al. as applied to claims 7, 9, and 36, respectively, and further in view of Courant et al. The Applicants submit that claims 7, 9, and 36 are not obvious over Kazi et al. in view of Blumson et al. for at least the reasons set forth above. Therefore, claims 8, 12, and 43 which depend from claims 7, 9, and 36, respectively, are allowable at least by virtue of their dependencies. In addition, the Office Action does not rely upon Courant et al. to make up for the deficiencies in Kazi et al. and Blumson et al. with respect to claims 7, 9, and 36. The Examiner is therefore respectfully requested to withdraw the rejection of claims 8, 12 and 43.

PATENTAtty Docket No.: 10007965-1
App. Ser. No.: 09/955,764**Claim 20**

Claim 20 has been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kazi et al. and Blumson et al. as applied to claim 9 and further in view of Brandle et al. The Office Action does not rely upon the disclosure contained in Brandle et al. to make up for the deficiencies in Kazi et al. and Blumson et al. as described hereinabove. In this regard, because claim 9 of the present invention is considered to be allowable over the disclosures contained in Kazi et al. and Blumson et al., Claim 20 is also considered to be allowable over these disclosures. The Examiner is therefore respectfully requested to withdraw the rejection of claim 20.

Claims 33 and 34

Claims 33 and 34 have been rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Kazi et al. and Blumson et al. as applied to claim 29 and further in view of Peek et al. The Applicants submit that claim 29 is not obvious over Kazi et al. in view of Blumson et al. for at least the reasons set forth above. Therefore, claims 33 and 34 which depend from claim 29 is allowable at least by virtue of their dependencies. In addition, the Office Action does not rely upon Peek et al. to make up for the deficiencies in Kazi et al. and Blumson et al. with respect to claim 29. The Examiner is therefore respectfully requested to withdraw the rejection of claims 33 and 34.

PATENTAtty Docket No.: 10007965-1
App. Ser. No.: 09/955,764**Conclusion**

In light of the foregoing, withdrawal of the rejections of record and allowance of this application are earnestly solicited.

Should the Examiner believe that a telephone conference with the undersigned would assist in resolving any issues pertaining to the allowability of the above-identified application, please contact the undersigned at the telephone number listed below. Please grant any required extensions of time and charge any fees due in connection with this request to deposit account no. 08-2025.

Respectfully submitted,

Dated: September 19, 2005

By 
Timothy B. Kang
Registration No.: 46,423

MANNAVA & KANG, P.C.
8221 Old Courthouse Road
Suite 104
Vienna, VA 22182
(703) 652-3817
(703) 880-5270 (facsimile)